

May 30, 2003

Honorable Michael K. Powell
Chairman
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

**Re: MB Docket No. 02-277
Biennial Ownership Review**

Dear Mr. Chairman:

Sainte Sepulveda, Inc., ("Sainte") licensee of KBVU, Eureka, California, hereby submits respectfully its comments on the Ex-Parte Communication in this Docket of Edward O. Fritz, President and CEO of the National Association of Broadcasters filed May 28, 2003 regarding Local Television Ownership.

In his letter, Mr. Fritz indicated that the NAB Television Board had approved a proposal whereby:

- No entity would be permitted to acquire television stations that, together with the viewing of any cable channels attributable to the same owner, have a total viewing share (calculated using total local viewing on a 7:00 am – 1:00 am basis averaged over one year) of greater than 30% in a TV market; and
- No entity would be permitted to own more than two (2) of the top four (4) rated local stations, and under no circumstances more than three (3) stations in a single market.

Sainte offers its conditional endorsement of the proposal suggested by Mr. Fritz, conditioned only upon the interpretation to be made of the term "total local viewing" used in the first part of the NAB's proposed TV Ownership Rule.

Total local viewing is an imprecise term that does not appear as a category in the Nielsen Ratings Reports. The two (2) relevant ratings categories reported by Nielsen are SHR (share) and IN MKTSHR (in market share). Nielsen's "in market share" reports only the viewing on television stations while the column labeled SHR includes viewing by cable channels and other video sources. Sainte believes that the NAB proposal would be workable only if the term "total

local viewing" is interpreted to encompass the *total* viewing of *all* video media in the market, including cable and other modes of video delivery that reach households in the market as well as over-the-air broadcasting. That data would appear to come from the Nielsen column rated SHR. If those numbers are to be used in the calculations required for this rule then Sainte endorses the proposal and urges the Commission to adopt it as an appropriate and fair method for evaluating small and very small television markets.

For the reasons stated specifically in Sainte's Ex Parte communication submitted to this Docket on May 16, 2003, very small markets would be adversely affected by a rule that did not allow some further consolidation among the multitude of video media distribution facilities that now exist in those communities. Allowing consolidation would actually permit more local programming of relevance to the local residents of those communities. Calculating viewing share with an eye that includes ALL sources of viewing, without prejudice to the mode of delivery, is a far more accurate and reasonable to approximate the true economic competition in the market as well as the level of video variety available to a small market community's viewers.

Sainte asks that the Commission consider its views when it decides what action to pursue for very small television markets in the Biennial Regulatory Review.

Respectfully submitted,

WOMBLE CARLYLE SANDRIDGE & RICE
A Professional Limited Liability Company



Gregg P. Skall

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